

**FILED**  
11/27/2024 VKM  
THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

GRUMPY CAT LIMITED,	)	
	)	<b>Case Number:</b> 24-cv-2702
Plaintiff	)	
	)	<b>Judge:</b> The Honorable Jorge L. Alonso
v.	)	
	)	<b>Magistrate Judge:</b> The Honorable David Weisman
smartypaints, Def. No. 173	)	
Defendant	)	

**DEFENDANT’S MOTION TO VACATE DEFAULT JUDGMENT AND  
MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

**TO THE HONORABLE COURT:**

The Defendant, smartypaints, Def. No. 173 , respectfully submits this **Motion to Vacate Default Judgment** under Rule 60(b) of the Federal Rules of Civil Procedure and a **Motion to Dismiss for Lack of Personal Jurisdiction** pursuant to Rule 12(b)(2). In support of this combined motion, the Defendant states as follows:

**I. Motion to Vacate Default Judgment**

1. **Background:**
- On May 07, 2024 Plaintiff filed a lawsuit against the Defendant alleging copyright infringement related to an image listing uploaded on Redbubble.
  - The Defendant, a resident of India, is a pro se litigant who did not respond to the summons in this matter due to excusable neglect.
  - A default judgment was entered against the Defendant, resulting in the limitation of their PayPal account by order of the Court. This limitation has caused significant hardship, as the Defendant relies on this account for financial transactions and livelihood.

**2. Grounds for Relief (Rule 60(b)):**

- **Excusable Neglect:** The Defendant respectfully submits that their failure to respond to the summons constitutes excusable neglect under Rule 60(b)(1). The summons was sent via email but was inadvertently overlooked due to the Defendant receiving a high volume of emails in their inbox. Despite exercising good faith and reasonable diligence, the Defendant was unable to notice the email and was therefore unaware of the proceedings. The Defendant did not intentionally disregard or evade the summons. Upon becoming aware of the default judgment through subsequent communications, the Defendant acted promptly to address the matter and seek relief from the Court. This oversight was a genuine mistake, and the Defendant respectfully requests that the Court consider these circumstances in granting relief.
- **Minimal Damages:** The Defendant made only one sale of \$4 from the design in question, causing negligible harm to the Plaintiff.
- **No Intentional Infringement:** The alleged infringement was unintentional, with no deliberate intent to exploit the Plaintiff's intellectual property.

**3. Relief Requested:**

- Vacate the default judgment.
- Request for Release of PayPal Account Limitation - In addition to vacating the default judgment, the Defendant respectfully requests that the Court issue an order to lift any limitations imposed on their PayPal account as a result of the judgment. The Defendant relies on this account for financial transactions, and its restriction has created significant financial and operational challenges.

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**II. Motion to Dismiss for Lack of Personal Jurisdiction**

**4. Lack of Contacts with the United States:**

- The Defendant is a resident and citizen of India with no physical presence, business operations, or substantial contacts in the United States.
- The Defendant's alleged activity (uploading an image to Redbubble) was conducted entirely from India, with no intent to target the U.S. market specifically.

**5. Due Process Violation:**

- Exercising jurisdiction over the Defendant would violate the principles of due process under the U.S. Constitution because it imposes undue burden on an international defendant with limited resources.

**6. Relief Requested:**

- Dismiss the case against the Defendant for lack of personal jurisdiction under Rule 12(b)(2).

John Wilson

Respectfully submitted,  
Sunakshi  
sunakshi.sinha90@gmail.com

Date: November 27, 2024

EXHIBITS

Exhibit A: Redbubble Sales History

Earnings by artwork and product

View sales history >

Your top artworks from November 25, 2023 to November 23, 2024






Artwork	Total	Products Sold	
<div><div>Abolish the monarchy <a href="#">Promote</a></div></div>	\$10.61	3	<a href="#">View products</a> ▾
<div><div>I don't always eat pie but when I do its on my birthday <a href="#">Promote</a></div></div>	\$6.22	1	<a href="#">View products</a> ▾
<div><div>Fresh Air is for Dead People <a href="#">Promote</a></div></div>	\$3.82	1	<a href="#">View products</a> ▾
<div><div>Cute shark on a surfboard <a href="#">Promote</a></div></div>	\$3.79	1	<a href="#">View products</a> ▾
<div><div>Grumpy cat peeking animals <a href="#">Promote</a></div></div>	\$3.79	1	<a href="#">View products</a> ▾

Exhibit B: National ID - Proof of Indian residency

